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9
10 **UNITED STATES DISTRICT COURT**
11 **CENTRAL DISTRICT OF CALIFORNIA**

12 JAMES FRANCIS HENRY,
13 Plaintiffs,
14 vs.
15 GC SERVICES, LP,
16 Defendant.

17 } Case No. CV 11-05964-GHK(VBKx)
18 }
19 } DEFENDANT'S ANSWER,
20 } AFFIRMATIVE DEFENSES, AND
21 } JURY DEMAND
22 }

23 **TO THIS HONORABLE COURT, ALL PARTIES AND TO THEIR**
24 **ATTORNEYS OF RECORD HEREIN:**

25 NOW COMES the Defendant, GC SERVICES LP ("Defendant"), by and
26 through its attorney, Renee Choy Ohlendorf of Hinshaw & Culbertson LLP, and
27 for its Answer to Plaintiff's Complaint, states as follows:

28 1. Defendant admits only that Plaintiff's Complaint includes a purported
29 claim based on the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 *et seq.*
30 ("FDCPA"), as well as a purported claim based upon the Rosenthal Fair Debt
31 Collection Practices Act, Cal. Civ. Code §1788 *et seq.* ("Rosenthal Act").
32 Defendant denies violating the FDCPA, Rosenthal Act, or any other law, denies

1 that it has any liability under any theory of law, and further denies that any of its
2 actions were illegal. Defendant denies all remaining allegations of Paragraph 1, if
3 any.

4 2. Defendant admits that Plaintiff's Complaint asserts a claim pursuant
5 to a federal statute and purports to invoke original jurisdiction of this Court.
6 Defendant denies all remaining allegations of Paragraph 2, if any.

7 3. Defendant admits that it conducts some business in California.
8 Defendant denies all remaining allegations of Paragraph 3.

9 4. Defendant lacks knowledge or information sufficient to form a belief
10 about the truth of the allegations of Paragraph 4.

11 5. Defendant admits that declaratory relief may be granted under 28
12 U.S.C. 2201 and 2202. Defendant denies that declaratory relief is proper in this
13 case, and denies all remaining allegations of Paragraph 5.

14 6. Defendant lacks knowledge or information sufficient to form a belief
15 about the truth of the allegations of Paragraph 6.

16 7. Defendant lacks knowledge or information sufficient to form a belief
17 about the truth of the allegations of Paragraph 7.

18 8. Defendant admits that it is a business entity with an address at 6330
19 Gulfton, Houston, Texas 77081. Defendant denies all remaining allegations of
20 Paragraph 8.

21 9. Defendant admits that from time to time it attempts to collect unpaid,
22 outstanding account balances. Defendant admits that in certain cases it may
23 qualify as a debt collector. Defendant denies all remaining allegations of
24 Paragraph 9.

25 10. Defendant states that the allegations of this paragraph are vague and
26 ambiguous with respect to time and scope. Further answering, Defendant lacks
27 knowledge or information sufficient to form a belief about the truth of the

1 allegations of Paragraph 10.

2 11. Defendant states that Paragraph 11 calls for a legal conclusion to
3 which no response is required. In the event that a response is required, Defendant
4 further states that the FDCPA speaks for itself, and denies all allegations that are
5 inconsistent with that statute. Defendant further denies all remaining allegations of
6 Paragraph 11.

7 12. Defendant states that Paragraph 12 calls for a legal conclusion to
8 which no response is required. In the event that a response is required, Defendant
9 further states that the FDCPA speaks for itself, and denies all allegations that are
10 inconsistent with that statute. Defendant further denies all remaining allegations of
11 Paragraph 12.

12 13. Defendant states that Paragraph 13 calls for a legal conclusion to
13 which no response is required. In the event that a response is required, Defendant
14 further states that the FDCPA speaks for itself, and denies all allegations that are
15 inconsistent with that statute or the legislative intent behind that statute. Defendant
16 further denies all remaining allegations of Paragraph 13.

17 14. Defendant states that Paragraph 14 calls for a legal conclusion to
18 which no response is required. In the event that a response is required, Defendant
19 further states that the FDCPA speaks for itself, and denies all allegations that are
20 inconsistent with that statute or the legislative intent behind that statute. Defendant
21 further denies all remaining allegations of Paragraph 14.

22 15. Defendant states that Paragraph 15 calls for a legal conclusion to
23 which no response is required. In the event that a response is required, Defendant
24 admits that it contacted Plaintiff with respect to an unpaid, outstanding account
25 balance. Defendant denies all remaining allegations of paragraph 15.

26 16. Defendant lacks knowledge or information sufficient to form a belief
27 about the truth of the allegations of Paragraph 16.

1 17. Defendant admits that it contacted Plaintiff regarding an unpaid,
2 outstanding account balance. Defendant denies all remaining allegations of
3 Paragraph 17.

4 18. Defendant lacks knowledge or information sufficient to form a belief
5 about the truth of the allegations of Paragraph 18.

6 19. Defendant lacks knowledge or information sufficient to form a belief
7 about the truth of the allegations of Paragraph 19.

8 20. Defendant lacks knowledge or information sufficient to form a belief
9 about the truth of the allegations of Paragraph 20.

10 21. Defendant lacks knowledge or information sufficient to form a belief
11 about the truth of the allegations of Paragraph 21.

12 22. Defendant lacks knowledge or information sufficient to form a belief
13 about the truth of the allegations of Paragraph 22.

14 23. Defendant lacks knowledge or information sufficient to form a belief
15 about the truth of the allegations of Paragraph 23.

16 24. Defendant states that Paragraph 24 calls for a legal conclusion to
17 which no response is required. In the event that a response is required, Defendant
18 further states that the FDCPA and case law cited in this paragraph speak for
19 themselves. Defendant denies all allegations that are inconsistent with the FDCPA
20 or any of the case law cited in this paragraph. Defendant also denies that any of
21 the case law cited in this paragraph is applicable to this case, and denies that the
22 out-of-state authority cited in this paragraph is binding upon this Court. Defendant
23 further denies all remaining allegations of Paragraph 24.

24 25. Defendant states that Paragraph 25 calls for a legal conclusion to
25 which no response is required. In the event that a response is required, Defendant
26 further states that the FDCPA and case law cited in this paragraph speak for
27 themselves. Defendant denies all allegations that are inconsistent with the

1 FDCPA or any of the case law cited in this paragraph. Defendant also denies that
2 any of the case law cited in this paragraph is applicable to this case, and denies that
3 the out-of-state authority cited in this paragraph is binding upon this Court.
4 Defendant further denies all remaining allegations of Paragraph 25.

5 26. Defendant states that Paragraph 26 calls for a legal conclusion to
6 which no response is required. In the event that a response is required, Defendant
7 further states that the FDCPA and case law cited in this paragraph speak for
8 themselves. Defendant denies all allegations that are inconsistent with the FDCPA
9 or any of the case law cited in this paragraph. Defendant also denies that any of
10 the case law cited in this paragraph is applicable to this case, and denies that the
11 out-of-state authority cited in this paragraph is binding upon this Court. Defendant
12 further denies all remaining allegations of Paragraph 26.

13 27. Defendant hereby restates and incorporates by reference its responses
14 to Paragraphs 1 through 26 of this Complaint for its response to Paragraph 27, as
15 though fully stated herein.

16 28. Defendant denies all allegations of Paragraph 28, including each of its
17 subparts (a) through (h).

18 29. Defendant hereby restates and incorporates by reference its responses
19 to Paragraphs 1 through 28 of this Complaint for its response to Paragraph 29, as
20 though fully stated herein.

21 30. Defendant denies all allegations of Paragraph 30, including each of its
22 subparts (a) through (b).

AFFIRMATIVE DEFENSES

25 Defendant, GC SERVICES LP (“Defendant”), by its attorney, Renee Choy
26 Ohlendorf, for its affirmative defenses, states as follows:

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1 **FIRST AFFIRMATIVE DEFENSE**

2 For its First Affirmative Defense, the defendant states that any violation of
3 the FDCPA or Rosenthal Fair Debt Collection Practices Act, which defendant
4 denies occurred, was not intentional and would have resulted from a bona fide
5 error notwithstanding the maintenance of procedures reasonably adapted to avoid
6 such error.

7 **SECOND AFFIRMATIVE DEFENSE**

8 For its Second Affirmative Defense, the defendant states that plaintiff has
9 failed to state a cause of action.

10 **THIRD AFFIRMATIVE DEFENSE**

11 For its Third Affirmative Defense, the defendant states that plaintiff has
12 failed to mitigate his damages.

13 **FOURTH AFFIRMATIVE DEFENSE**

14 For its Fourth Affirmative Defense, the defendant states the damages alleged
15 by plaintiff were the result of superseding and/or intervening cause(s).

16 **FIFTH AFFIRMATIVE DEFENSE**

17 For its Fifth Affirmative Defense, the defendant states that plaintiff's alleged
18 damages were not proximately caused by defendant.

19 **SIXTH AFFIRMATIVE DEFENSE**

20 For its Sixth Affirmative Defense, the defendant states that while plaintiff
21 did not sustain any damages, in the event that he did, those exclude actual
22 damages.

23 **SEVENTH AFFIRMATIVE DEFENSE**

24 For its Seventh Affirmative Defense, the defendant states that in the event a
25 violation of law occurred, which Defendant denies did, the violation was not
26 material.

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JURY DEMAND

Defendant demands a trial by jury pursuant to F.R.C.P. 38.

WHEREFORE, defendant, GC SERVICES LP, respectfully requests that judgment be entered in its favor and against plaintiff and for such further relief as this Court deems just and proper.

Respectfully submitted,

DATED: September 27, 2011

HINSHAW & CULBERTSON LLP

By: /s/ Renee Choy Ohlendorf
Renee Choy Ohlendorf
Attorneys for Defendant GC SERVICES,
LP